

# **BACKGROUND PAPER FOR HEARING JANUARY 7, 2004**

## **BUREAU FOR PRIVATE POSTSECONDARY AND VOCATIONAL EDUCATION (BPPVE)**

### **SPECIAL REPORT FROM THE BUREAU ON ITS PROGRESS IN RESOLVING DEFICIENCIES IDENTIFIED IN PRIOR AUDITS**

**PRIOR SUNSET REVIEW:** The Bureau for Private Postsecondary and Vocational Education (BPPVE or Bureau) was reviewed by the Joint Legislative Sunset Review Committee (JLSRC) one year ago (2002-2003). The JLSRC and the Department of Consumer Affairs (DCA) identified a number of issues and made various recommendations regarding the Bureau's operation. The identified issues and the recommendations adopted by the JLSRC are listed later in this background paper. Those recommendations adopted by the JLSRC that required legislative action were amended into SB 359 (Figueroa) in April of 2003.

As SB 359 moved through the Legislature, several amendments were adopted to modify the bill's proposed requirements. One initial recommendation, for the Bureau to contract for the establishment of an Operations Monitor to evaluate the performance of the Bureau and report on its findings to the JLSRC, was determined to be unacceptably costly for the Bureau to undertake. Another recommendation, for the Bureau to establish an expanded outreach program for students, was modified by amendments recommended by the Senate Appropriations Committee and accepted by the author, to make implementation contingent on the Bureau's thorough review of its revenue and resource needs and a finding by the Department that the Bureau had the necessary resources to fulfill its current obligations and expand its outreach efforts. And another JLSRC recommendation, that consideration be given to having accreditation by regional accrediting bodies approved by the United States Department of Education be used to qualify schools for approval to operate by the Bureau, was accomplished through enactment of SB 967 (Burton, Chapter 340).

Some recommendations for making some clean-up changes in the Private Postsecondary and Vocational Education Reform Act that were originally prepared an attorney with the Department of Consumer Affairs in 2000 have been drafted by Legislative Counsel and introduced for review this Fall as Preprint Senate Bill No. 1 (Figueroa). This draft is intended to be the starting point for legislation next year to streamline and improve the Act and its administration.

Prior to enactment, the provisions of SB 359 were amended into the provisions of another JLSRC-sponsored bill, SB 364 (Figueroa) which was then enacted with those provisions as Chapter 789, Statutes of 2003. The provisions of SB 364 required:

- 1) The Bureau to work with the staff of the JLSRC and other specified stakeholders to streamline the provisions of the Private Postsecondary and Vocational Reform Act of 1989, including consideration of having accreditation by regional accrediting bodies approved by the United States Department of Education replace some of the Bureau's approval requirements for degree-granting institutions, educational programs, and instructors.
- 2) The Bureau, in conjunction with the above stakeholders, to determine what additional changes are advisable to improve the effectiveness of the state's regulation of private postsecondary and vocational education, including but not limited to the need and feasibility of California to regulated out-of-state postsecondary institutions that offer educational programs to California students via the Internet, and the type and timeliness of information required to be provided to the Bureau.
- 3) The Bureau to objectively assess the cost of meeting its statutory obligations, determine the staffing necessary to meet those obligations, determine whether the current fee structure allows for for collection of revenue sufficient to support the necessary staffing, and report that information to the Director of DCA and the JLSRC by October 1, 2004.
- 4) The Bureau to expand its outreach program for current and prospective students regarding on specified subjects, selecting schools, and entering into contracts with schools, contingent upon the bureau first reporting to the Director of DCA and the JLSCR on its fee structure and revenues pursuant to #3 above, and thereafter the Director of Consumer Affairs making a finding that the Bureau has sufficient revenues to meet its current obligations and that the cost of an outreach program will not further jeopardize the bureau's ability to meet those obligations.
- 5) The Bureau to report to the Legislature on its progress in accomplishing the corrective actions necessary to resolve the deficiencies found in the audit performed by DCA's Internal Audit Office, and any remaining deficiencies found in the 2000 audit by the Bureau of State Audits. In particular, the bureau is to report on the status and timeliness of its complaint and enforcement, and application and renewal processes and procedures, the condition of the Student Tuition Recovery Fund and the status of any claims thereon, the status and timeliness of its various approval or registration processes, the status of and capabilities of its data processing and dissemination system, its outreach efforts to current and prospective students, and any recommendations for improvement to its operations, including any recommendations regarding revisions to the Reform Act.

**In accordance with the provisions of AB 364 the Bureau will be providing the JLSRC with a report updating the progress it has made towards resolving the deficiencies noted in DCA's Internal Audit Office November 2002 audit, as well as the status of resolution regarding the deficiencies noted in the BSA November 2000 audit.**

## **RECENT BUDGETARY AND STAFFING REDUCTIONS AT THE BUREAU**

**Due to fiscal concerns and the past and current state budget shortages, there has been a freeze on the hiring state employees, and reductions in the Bureau's staffing and budgets. Most recently, there has been a reported 12% reduction in the FY 2003/2004 budget for the Bureau.**

**Questions for the Bureau:** What has been the effect on staffing and budgets of the hiring freeze, and budget reductions over the past two years? How does the Bureau see these changes as affecting its administration of the state's regulation of private and postsecondary education? Impact of the hiring?

## **AUDITS**

### **Department Internal Audit Office – Findings and Recommendations:**

During the Fall of 2002, the Internal Audit Office of the Department of Consumer Affairs (Department) conducted an audit during the Fall of 2002, and made its report with findings and recommendations in November of 2002. The Department's November 2002 Internal Audit findings and recommendations, as well as the Bureau's initial responses thereto in November 2002 were:

1. **Finding:** The Bureau needs to modify its current Strategic Plan to include important elements necessary to assist management in measuring the success of its operations.  
**Recommendations:** The Bureau should work with the eGovernment and Special Programs Division [of the Department] to develop action plans that address strategies, ownership responsibilities, deliverables and targeted dates. Internal and external stakeholders should have the opportunity for input during this process.  
**Bureau Response:** The Bureau agreed with the finding and has proposed specific corrective action.
2. **Finding:** Improvements are needed to address deficiencies in the Bureau's institution approval process.  
**Recommendations:** The Bureau should consistently use written policies and procedures to ensure that staff perform consistent and adequate institution approvals and retain sufficient evidence in the files to support compliance with the applicable laws and regulations. In addition, staff should be adequately trained to reinforce the Bureau's institution approval policies, procedures, laws and regulations. Further, the Bureau needs to implement a process to periodically monitor workload to ensure that appropriate statutory and regulatory processing times are met. As part of this process, a quality control review should be established. The quality control reviews should include an adequate review of the completed institution files.  
**Bureau Response:** The Bureau agreed with the finding and has proposed specific corrective action.
3. **Finding:** The Bureau is not collecting all the required fees and assessments.  
**Recommendations:** The Bureau should continue with its reconciliation process for all institutions. The Bureau should set up a collection process to ensure that fees and assessments are collected and take disciplinary action against non-paying institutions. Also, internal procedures should be established for billing and collection processes. Finally, the Bureau should continue with the development of the revenue-tracking module for its new SAIL information management system.  
**Bureau Response:** The Bureau agreed with the finding and has proposed specific corrective action.
4. **Finding:** The Bureau's STRF payment process is operational, but several factors have prevented the Bureau from making timely payments to students.  
**Recommendations:** The Bureau should continue with the adoption of the proposed STRF regulations. After regulations become effective, the Bureau needs to ensure that it collects all outstanding STRF funds that have not been paid. The Bureau should also take steps to ensure payment of STRF claims in accordance with the statutory laws. Furthermore, the Bureau should reestablish its STRF verification process to ensure that all institutions are properly calculating and paying their STRF assessments.  
**Bureau Response:** The Bureau agreed with the finding and has proposed specific corrective action.

5. Finding: Complaint mediation has improved; however, further progress is needed to ensure adequate consumer protection.  
Recommendations: The Bureau should develop its complaint handling procedures. As part of this process, the Bureau should develop time processing goals to reduce its pending complaints. Procedures should also be developed for timely complainant communication, proper disciplinary actions, retaining adequate case file documentation and an adequate quality control review.  
Bureau Response: The Bureau agreed with the finding and has proposed specific corrective action.
6. Finding: The Bureau has not ensured that all approved institutions comply with the annual reporting requirements but has made progress in recent years.  
Recommendations: The Bureau should continue its effort to obtain the required annual reports. The Bureau should also take appropriate disciplinary actions for institutions not complying with the statutory law. The Bureau also needs to develop procedures for reviewing the financial and educational program information as required by the applicable laws.  
Bureau Response: The Bureau agreed with the finding and as proposed specific corrective action.
7. Finding: The SAIL [Bureau's new information management system] addresses several of the Bureau's current information system inadequacies but does not comply with the State IT project requirements.  
Recommendation: The Bureau should take action to ensure that the SAIL system conforms to State IT requirements. In addition, the Bureau needs to develop the required system documentation. The Bureau should also develop a backup plan in the event the IT staff developing and programming the system separates from the Bureau.  
Bureau Response: The Bureau agreed with the finding and has proposed specific corrective action.
8. Finding: The Bureau generally enforced eligibility requirements prior to issuing agent permits and certificates of authorization for service but needs to address deficiencies in its processes.  
Recommendation: The Bureau should improve its existing policies and procedures and provide adequate oversight. In addition, the SAIL system should include a module for tracking agent permit applications. The module should be able to monitor compliance with the processing times. The Bureau also needs to ensure that it complies with the Department's CORI (Criminal Offender Record Information) procedures, as well as the DOJ requirements.  
Bureau Response: The Bureau agreed with the finding and has proposed specific corrective action.

## **Bureau of State Audits – November 2000 Audit Report Recommendations:**

In 2000, the Bureau of State Audits (BSA) reviewed DCA, and issued a report dated November 22, 2000. The BSA made several recommendations regarding the operation of the Bureau, and the Bureau stated in its initial response to the BSA audit that it had implemented a corrective action plan to address all of the BSA's recommendations. The BSA audit report recommended:

- 1) The BPPVE should establish a system to monitor its actions in processing licenses and consumer complaints.
- 2) The BPPVE should also develop policies and procedures to guide its staff in processing applications and consumer complaints in a consistent and effective manner.
- 3) The BPPVE should ensure that it investigates all consumer complaints, especially the ones that it cannot mediate.
- 4) The BPPVE should continue its efforts to identify those institutions that were overcharged for licensing fees and reimburse them.

## **Bureau's 2002 Sunset Report's Projections for Future Considerations and Improvements.**

The Bureau's 2002 Sunset Report stated that the Bureau would be taking action during the 2002/2003 fiscal year to effect the following changes in its operation:

- **Advisory Board** – Recommend to and have the Director of DCA make appointments to and reestablish the Bureau's Advisory Board composed of representatives from students, schools, employers and the public.
- **Appeals Process** – Simplify and streamline current appeal procedures to ensure fair and equitable resolution of appeals in a cost effective and timely manner.
- **Approval Process** – Amend the current cumbersome approval statute and regulation procedures to ensure comprehensive, efficient and effective approval procedures.
- **Arbitration** – Develop and propose regulations that would implement a Bureau-operated voluntary arbitration program as required in statute.
- **Enforcement** – Amend current law to further improve the Bureau's ability to quickly go after violators. This includes, but is not limited to, streamlining legal notification requirements when implementing enforcement actions and revoking or suspending approvals to operate or certificates of authorizations.
- **Processes and Procedures** – Rectifying the deficiencies noted in the BSA November 2000 audit regarding the Bureau's procedures and documentation (or lack thereof) relative to its application processing, cashiering, complaint handling, and other activities that had not been resolved.
- **Internet Regulation** – Make the necessary statutory and regulatory changes to keep pace with the special challenges of Internet (on-line) education to ensure student protections and quality of services remain intact.

## **HISTORICAL BACKGROUND OF CALIFORNIA'S REGULATION OF PRIVATE POSTSECONDARY AND VOCATIONAL EDUCATION.**

Prior to 1990, the Superintendent of Public Instruction, in consultation with a 14-member Advisory Council for Private Postsecondary Educational Institutions, was vested with the responsibility for the administration of the state's regulation of private postsecondary and vocational educational institutions under the Private Postsecondary Education Act of 1977. There were six categories of degree-granting institutions and four categories of nondegree-granting institutions. That law allowed accreditation by national accrediting associations recognized by the U.S. Department of Education in lieu of state review and oversight for licensure purposes. The regulatory duties under that law were performed by the Private Postsecondary Education Division of the State Department of Education (Division) and included a procedure for institutions to secure authorization from the state to issue diplomas and degrees. The Division delegated approval of vocational institutions to independent accrediting agencies and did not establish any compliance requirements. However, in the 1980's California earned the reputation as a haven for so-called "diploma mills" – with many degrees and diplomas awarded by California's private postsecondary and vocational institutions being of questionable integrity and value. Further, there was significant financial aid abuse in private schools and colleges.

Because of serious concern about the integrity of the degrees and diplomas from schools with widely varying standards, the lack of enforcement provisions, and the exemptions from state oversight granted in the law, in 1989 the CPEC sponsored SB 190 (Morgan), Chapter 1307, Statutes of 1989, to enact the Private Postsecondary and Vocational Education Reform Act of 1989 (Reform Act). That legislation became effective on January 1, 1990 and established a single, independent agency known as the Council for Private Postsecondary and Vocational Education (Council). The Council was composed of 20 members representing private postsecondary schools, the public, state agencies, and appointees from the Governor and the Legislature - to which the responsibilities of regulation were transferred from the Department of Education following a one year transitional period. The Reform Act also established a single approval process for all private schools, colleges and universities except institutions accredited by the Western Association of Schools and Colleges (WASC).

Also in 1989, AB 1420 (M. Waters) enacted the Maxine Waters School Reform and Student Protection Act of 1989 (Maxine Waters Act) whose provisions were applicable to institutions other than WASC accredited nonprofit institutions that regularly confer degrees after at least two years of study. Two provisions strengthened and expanded minimum standards for the financial condition of an institution, course passage rates and postgraduate employment rates, student protections including refund policies and enrollment agreements, enforcement procedures and penalties. The provisions of the Maxine Waters Act were merged with, and became a part of the Reform Act enacted by SB 190.

In 1995, pursuant to provisions of the Reform Act, CPEC conducted an evaluation of the effectiveness of the Reform Act and submitted its report to the Legislature. CPEC concluded that the Council's administration of the Reform Act had provided significant protection to consumers, had effectively protected the integrity of degrees and diplomas offered by postsecondary institutions, that student and institutional protections represented a balanced view, and that the Council and the Reform Act should be continued by repealing the June 30, 1997, sunset date in the Act.

However, at the end of the 1996 Legislative Session, the Governor vetoed AB 2960 (Firestone and Campbell) that would have extended the sunset date for the Act and the Council. The Governor's veto message raised the following concerns: (1) the level of fees required for compliance and the ability of small schools to stay in business – that larger, more capitalized schools did not have the same problem as smaller schools that operate on a much smaller margin, and (2) the manner in which the staff of the Council carried out their responsibilities – including reports from schools alleging a pattern of reprisals and vindictiveness, and the need for an administrative appeal process short of litigation.

In response to the Governor's veto, two urgency bills were enacted the following year (1997) to extend the Reform Act and the Council's sunset to January 1, 1998. Thereafter, AB 71 was enacted to extend the January 1, 1998 sunset date to January 1, 2005, create the Bureau in the Department of Consumer Affairs (DCA), transfer the administration of the Reform Act from the Council to the Bureau, and make a number of changes to the Reform Act. One notable change was the addition of regulation over a new "registration" category for certain types of programs including intensive English language programs, short-term seminars, employment related programs that cost less than \$2000 and are less than 250 hours in duration, and state occupational or profession licensing exam preparation courses. Registration involves a lesser standard of review than the usual full-scale school review and "approval."

**Current Regulatory System.** Since January 1, 1998, the Bureau has been responsible for administering the state's regulation of private postsecondary and vocational education institutions pursuant to the provisions of the Private Postsecondary and Vocational Reform Act of 1989, as

amended up to the present. Those statutory provisions are located in the California Education Code (Title 3, Division 10, Part 59, Chapter 7) Sections 94700 through 94999 (164 separate sections in all.) In addition, the Bureau operates under the authority of the Director of the DCA and, as a result, its operation is also regulated by a number of sections in the Business and Professions Code. The relevant Bureau administrative regulations are located in Title 5 California Code of Regulations, Sections 70000 – 76210.

The intent of the Reform Act was to promote integration of private postsecondary education into all aspects of California's educational system and to foster and improve the educational programs and services of those institutions while protecting the citizens of California from fraudulent or substandard operations. Specifically, the Reform Act's Legislative Intent provides the following purposes:

- Ensuring minimum standards of instructional quality and institutional stability, thereby encouraging the recognition by public and private institutions of completed coursework and degrees and diplomas issued by private institutions.
- Establishing minimum standards concerning the quality of education, ethical business practices, health and safety, and fiscal responsibility to provide protection against substandard, transient, unethical, deceptive, or fraudulent institutions and practices.
- Prohibiting the granting of false or misleading educational credentials.
- Prohibiting misleading literature, advertising, solicitation, or representations by private institutions or their agents.
- Protecting the consumer and students against fraud, misrepresentation, or other practices that may lead to an improper loss of funds paid for educational costs, whether financed through personal resources or state and federal student financial aid.
- Recognizing and encouraging quality nongovernmental accreditation, while not ceding the responsibility for state oversight for purposes of approval, if the accreditation process fails to either protect minimum standards of quality or to acknowledge legitimate innovative methods in postsecondary education.
- Establishing an administrative agency staffed by individuals who are knowledgeable about private academic and vocational education and charges with the responsibility of developing policies and procedures for the oversight and approval of private postsecondary and vocational education – including the responsibility for managing a broadly construed policy and planning process that seeks to improve the state accountability for those institutions as well as to improve the articulation of private postsecondary and vocational education with the public and independent postsecondary educational community. The administrative agency should provide the leadership and planning needed to maintain and develop a strong private sector in the postsecondary and vocational educational community.

The Bureau regulates, and approves or registers, approximately 3000 private postsecondary or vocational education institutions. This includes approval of approximately 2400 private vocational training institutions with an estimated enrollment of 325,000 students, 300 private postsecondary degree-granting institutions with an estimated student enrollment of 88,000 students, and registration of 300 private institutions that provide short career/seminar training, continuing education, intensive English language programs, and license exam preparation courses. In addition, the Bureau is designated as the State Approving Agency for the administration and approval of resident veterans' educational programs. This includes approval of courses offered to veterans and related eligible persons using GI educational benefits by 950 public and private postsecondary degree-granting and vocational institutions with an estimated enrollment of 25,000 veterans using their GI Bill educational

benefits. Bureau approval or registration is required before a school may legally operate to offer courses to students or veterans in order for them to be eligible for federal financial aid.

All private nondegree-granting postsecondary or vocational education institutions are required to comply with a common set of standards and requirements. The Bureau conducts an assessment of institutions' operations to determine if the quality and content of each course or program of instruction, training or study may reasonably be expected to achieve the objective for which it is offered. The operational areas assessed by the Bureau include space and equipment requirements, faculty qualifications, disclosure of information about the course and the occupations to which the course leads, student performance records, health and safety standards, and financial responsibility and stability.

Approval of private degree-granting institutions also requires compliance with a common set of standards and requirements. The Bureau reviews each degree program offered by an institution and performs a qualitative assessment of the following: curricula, instruction, faculty, physical facilities, administrative personnel, admission standards, financial resources, governance, institutional purpose and mission, degrees offered, graduation requirements, financial aid policies and practices, and financial stability. All private degree-granting institutions are subject to this regulation except: 1) WASC-accredited institutions that are either incorporated as a nonprofit public benefit corporation or exclusively confer degree upon completion of a course of study of two or more years; 2) religious institutions whose degrees pertain to its religious beliefs; or 3) institutions that comply with certain criteria and are approved by an accrediting agency recognized by the U.S. Department of Education (USDE).

The Bureau also administers the Student Tuition Recovery Fund (STRF) established in 1978 and funded by assessments on regulated schools and their students based on the cost of the course for each student. The purpose of the STRF is to relieve or mitigate enrollment fee losses incurred by students enrolled in private postsecondary institutions that close prior to the student's completion of his or her education, that breach the enrollment agreement made with the student, or that violate provisions of the Reform Act regarding making tuition refunds.

The Bureau is administered by a Bureau Chief, appointed by the Governor and confirmed by the Senate, to whom the Director of Consumer Affairs has delegated the duties granted the Director by the Reform Act. The Director of Consumer Affairs is required to appoint an advisory committee consisting of representatives of educational institutions, student advocates, and employers who hire students, among other parties. The advisory committee is to advise the Bureau concerning the Bureau's administration, licensing, and enforcement functions. (Note: Currently, there is no advisory committee. The Bureau recently submitted candidates to the Director and it is anticipated that appointments will be made to create the advisory committee to assist the Bureau in its future regulatory efforts.)

As of November 2002, the Bureau had 71 authorized staff positions and had a budget of \$7.7 million (FY 2002-2003), derived from various approval fees assessed from the regulated institutions and \$1.1 million provided by the federal government for the Bureau's approval of programs for veterans' benefits. Prior to granting an institution approval, the Bureau first reviews the very extensive application paperwork submitted by institutions. Thereafter, within a specified time period, the Bureau is required to conduct site visits to the institutions' actual physical plant using site visitation teams made up with members whose educational level is at least equal to that of the programs they are evaluating. Pursuant to the enactment of SB 967 (Burton, Chapter 340 – 2003) accreditation by a

regional accreditation organization that is approved by the United States Department of Education can be used by the Bureau for granting its approval without the necessity for conducting its own assessment and site review.

## **LAST YEAR'S JLSRC SUNSET REPORT ISSUES, RECOMMENDATIONS, AND COMMENTS**

**ISSUE #1: (CONTINUE REGULATION OF THE PROFESSION BY THE BUREAU?)** Should the licensing and regulation of private postsecondary and vocational institutions by the Bureau for Private Postsecondary and Vocational Education of the Department of Consumer Affairs be continued?

***Recommendation #1a:*** *The Joint Committee and the Department recommend that the Bureau be retained within the Department of Consumer Affairs for two years, to allow for consideration of Master Plan recommendations.*

***Recommendation #1b:*** *The Joint Committee and the Department further recommend that the JLSRC review the Bureau and the results of Master Plan proposals again in two years, and at that time address the issue of potential consolidation of some higher education programs.*

**Comments:** Throughout discussions with other agencies and the Legislature, the Department has stressed the importance of maintaining – and continuing to clarify and strengthen – regulation of the business and student protection practices at all postsecondary education institutions. While the Department has indicated its openness to consideration of consolidation proposals that may be considered by the Legislature in the coming months, it has also indicated that it would not serve California's postsecondary education students or schools well to relocate the Bureau at this time.

**ISSUE #2: (NEED TO REGULATE OUT-OF-STATE INSTITUTIONS OFFERING EDUCATIONAL PROGRAMS AND DEGREES OR DIPLOMAS.)** State laws regulating private postsecondary and vocational institutions that are administered by the Bureau to protect students and the public against fraud and inadequate education do not regulate institutions that are out-of-state and are offering educational programs and degrees or diplomas via the Internet to California students.

***Recommendation #2:*** *The Joint Committee and the Department recommend that the working group initiated by the JLSRC Chair, Senator Figueroa, that is developing an improved statute also examine the need to regulate out-of-state postsecondary institutions that offer educational programs to California students via the Internet.*

**Comments:** Increasingly postsecondary and vocational education programs and diplomas and degrees are being offered from schools located outside of California to California students through correspondence courses and electronic media – especially the Internet. The current Reform Act does not provide the Bureau with the legal authority to regulate these institutions and assure the quality and integrity of their programs and degrees, and the protection of their California students. Given the interstate nature of these enterprises, and the lack of a physical location, it is doubtful that California alone can either legally or effectively regulate these institutions and their educational programs despite the significant impact they may have on Californians. There has been some work on this being done

by groups at the national level. The Bureau indicates that it has not received many complaints regarding these educational institutions or programs from students. This area seems to represent a serious and apparently increasing gap in the regulatory protection intended by the enactment of the Reform Act – and efforts should be made to address it before it creates a recurrence of the “diploma mill” and student fraud and misrepresentation problems California experienced in the 1980’s.

**ISSUE #3: (ARE THERE ADEQUATE REVENUES AND ARE THEY COMMENSURATE WITH BUREAU’S VARIOUS COSTS AND EXPENDITURES?)** It is unclear if the Bureau’s fees and sources of revenues are related to and commensurate with the costs and expenditures of the Bureau’s different programs or if there is cross-subsidization.

**Recommendation #3:** *The Joint Committee and the Department recommend a review of the Bureau’s fee structure.*

**Comments:** The Department recommends that the Bureau’s fee structure be reviewed and modified, if appropriate. This review should focus on penalties for late filing of annual reports, for non-payment of annual fees, and for non-payment of STRF payments. Additionally, the Department has directed the Bureau to ensure attention to the collection of renewal fees.

**ISSUE #4: (NEED FOR IMPROVED AND TIMELY DATA COLLECTION AND DISSEMINATION?)** Data collection and dissemination from the private postsecondary and vocational education sector that is similar to the data available from the public postsecondary sector appears inadequate.

**Recommendation#4:** *The Joint Committee and the Department recommend improvements and modifications to the Bureau’s information and data systems.*

**Comments:** In an effort to remedy antiquated and non-integrated information and data systems brought to the Bureau by the former Council for Private Postsecondary and Vocational Education, the Bureau initiated the development of a new automated system. This new system is expected to provide improved monitoring of reports, initial and renewal applications, complaint and enforcement records, and collection of fees.

The Department concurs with the JLSRC that additional improvement is needed and is committed to working with the Bureau to complete the institution of a system that will serve the Bureau’s wide-ranging data management needs effectively.

**ISSUE #5: (CONCERNS AND CRITICISM THAT THE BUREAU IS FAILING TO ADMINISTER THE VARIOUS PROVISIONS OF THE REFORM ACT EFFECTIVELY.)** There has been widespread criticism that the Bureau has failed to administer the various provisions of the Reform Act - including those governing institutional approvals, operation of the STRF, handling of student complaints, protection of students against violations of the act by institutions and school closures, collection of information and fees.

**Recommendation #5:** *The Joint Committee and the Department recommend the appointment of an Operations Monitor.*

**Comments:** The Department recommends that an external operations and administrative monitor be retained by the Department, and paid for by the Bureau, to further assess the Bureau's school approval, applicant review, revenue collection, and complaint and enforcement processes and procedures.

The Department has previously utilized external monitors to evaluate programs at the Contractors State License Board, the Dental Board and the Medical Board, and has found this approach to be enormously helpful.

**ISSUE #6: (EXPAND BUREAU OUTREACH TO POTENTIAL PRIVATE POSTSECONDARY STUDENTS?)** Concerns have been raised that the information regarding private postsecondary and vocational educational institutions is inadequate and does not reach students prior to the time they must make a decision regarding their higher educational plans.

***Recommendation #6:*** *The Joint Committee and the Department recommend that the Bureau establish an expanded outreach program for students.*

**Comments:** Because California's high school students have many options when making their postsecondary plans, it is important that they are provided with information on how best to select postsecondary or vocational schools, how to enter into contracts and student enrollment agreements, how to protect themselves in this marketplace, and how to contact the Bureau for assistance should problems arise. The Department recommends that the Bureau develop a plan to reach high school students before while they are still in school.

**ISSUE #7: (BUREAU ISOLATED FROM ITS STAKEHOLDERS AND OTHER STATE EDUCATIONAL OVERSIGHT AND REGULATION?)** The Bureau appears to operate in isolation from the State's regulation of other educational programs – being located in the Department of Consumer Affairs whose constituent licensing regulation is focused on the conduct of businesses and occupations, and not educational endeavors.

***Recommendation #7:*** *The Joint Committee recommends that the Bureau should establish its statutorily-required advisory committee, including representation from its various stakeholders, and include a representative of the California Postsecondary Education Commission (CPEC.) A representative of the Bureau should be included on CPEC – in at least an ex-officio position – to participate in the latter's deliberations.*

**Comments:** The Bureau is in the process of establishing its Advisory Committee and will include a representative of the California Postsecondary Education Commission. The Bureau advises the Department that it has identified potential advisory committee members and intends to complete establishment of the committee shortly.

Prior to the establishment of the Bureau as the agency responsible for administering the Reform Act, regulation and oversight of private postsecondary and vocational education institutions was performed by state governmental agencies whose primary focus was education, namely – the Department of Education and the Council for Private Postsecondary and Vocational Education. Both of these agencies had advisory or governing membership representing educational governmental representatives, the public, students, regulated educational institutions and the Legislature.

**ISSUE #8: (ADDRESS DEFICIENCIES IDENTIFIED IN AUDITS OF THE BUREAU?) Two audits of the BPPVE have revealed shortcomings in the agency's operations.**

***Recommendation #8: The Joint Committee recommends that the Bureau should address and resolve the deficiencies found in the audit performed by the DCA Internal Audit Office, as well as any outstanding findings and recommendations from the 2000 Bureau of State Audits audit.***

**Comments:** The Bureau is addressing deficiencies identified in the Department's internal audit, including a focus on reduction of school approval backlog. In response to the Department's Internal Audit Office findings, the Department immediately triaged an administrative team to develop and direct implementation of a plan to address the audit recommendations. As part of that plan, the Bureau has revised its Strategic Plan to include action plans, timelines and deliverables that are directly responsive to the Department's audit. The Department has directed the Bureau to continue its focus on reduction of the school approval backlog. The Department and its Internal Audit Office have required the Bureau to submit 60, 180 and 360 day specific corrective action reports to ensure full response to the audit recommendations.

*The Department's November 2002 Internal Audit made the following Findings and Recommendations, and the Bureau's Responses are as follows:*

9. **Finding:** The Bureau needs to modify its current Strategic Plan to include important elements necessary to assist management in measuring the success of its operations.  
**Recommendations:** The Bureau should work with the eGovernment and Special Programs Division [of the Department] to develop action plans that address strategies, ownership responsibilities, deliverables and targeted dates. Internal and external stakeholders should have the opportunity for input during this process.  
**Bureau Response:** The Bureau agreed with the finding and has proposed specific corrective action.
10. **Finding:** Improvements are needed to address deficiencies in the Bureau's institution approval process.  
**Recommendations:** The Bureau should consistently use written policies and procedures to ensure that staff perform consistent and adequate institution approvals and retain sufficient evidence in the files to support compliance with the applicable laws and regulations. In addition, staff should be adequately trained to reinforce the Bureau's institution approval policies, procedures, laws and regulations. Further, the Bureau needs to implement a process to periodically monitor workload to ensure that appropriate statutory and regulatory processing times are met. As part of this process, a quality control review should be established. The quality control reviews should include an adequate review of the completed institution files.  
**Bureau Response:** The Bureau agreed with the finding and has proposed specific corrective action.
11. **Finding:** The Bureau is not collecting all the required fees and assessments.  
**Recommendations:** The Bureau should continue with its reconciliation process for all institutions. The Bureau should set up a collection process to ensure that fees and assessments are collected and take disciplinary action against non-paying institutions. Also, internal procedures should be established for billing and collection processes. Finally, the Bureau should continue with the development of the revenue-tracking module for its new SAIL information management system.  
**Bureau Response:** The Bureau agreed with the finding and has proposed specific corrective action.
12. **Finding:** The Bureau's STRF payment process is operational, but several factors have prevented the Bureau from making timely payments to students.  
**Recommendations:** The Bureau should continue with the adoption of the proposed STRF

regulations. After regulations become effective, the Bureau needs to ensure that it collects all outstanding STRF funds that have not been paid. The Bureau should also take steps to ensure payment of STRF claims in accordance with the statutory laws. Furthermore, the Bureau should reestablish its STRF verification process to ensure that all institutions are properly calculating and paying their STRF assessments.

Bureau Response: The Bureau agreed with the finding and has proposed specific corrective action.

13. Finding: Complain medication has improved; however, further progress is needed to ensure adequate consumer protection.

Recommendations: The Bureau should develop its complaint handling procedures. As part of this process, the Bureau should develop time processing goals to reduce its pending complaints. Procedures should also be developed for timely complainant communication, proper disciplinary actions, retaining adequate case file documentation and an adequate quality control review.

Bureau Response: The Bureau agreed with the finding and has proposed specific corrective action.

14. Finding: The Bureau has not ensured that all approved institutions comply with the annual reporting requirements but has made progress in recent years.

Recommendations: The Bureau should continue its effort to obtain the required annual reports. The Bureau should also take appropriate disciplinary actions for institutions not complying with the statutory law. The Bureau also needs to develop procedures for reviewing the financial and educational program information as required by the applicable laws.

Bureau Response: The Bureau agreed with the finding and has proposed specific corrective action.

15. Finding: The SAIL [Bureau's new information management system] addresses several of the Bureau's current information system inadequacies but does not comply with the State IT project requirements.

Recommendation: The Bureau should take action to ensure that the SAIL system conforms to State IT requirements. In addition, the Bureau needs to develop the required system documentation. The Bureau should also develop a backup plan in the event the IT staff developing and programming the system separates from the Bureau.

Bureau Response: The Bureau agreed with the finding and has proposed specific corrective action.

16. Finding: The Bureau generally enforced eligibility requirements prior to issuing agent permits and certificates of authorization for service but needs to address deficiencies in its processes.

Recommendation: The Bureau should improve its existing policies and procedures and provide adequate oversight. In addition, the SAIL system should include a module for tracking agent permit applications. The module should be able to monitor compliance with the processing times. The Bureau also needs to ensure that it complies with the Department's CORI (Criminal Offender Record Information) procedures, as well as the DOJ requirements.

Bureau Response: The Bureau agreed with the finding and has proposed specific corrective action.

**ISSUE #9: (REVISE THE PRIVATE POSTSECONDARY AND VOCATIONAL EDUCATION REFORM ACT OF 1989?) The current statutes under which the Bureau operates appear to be inordinately complex, vague, and contradictory.**

***Recommendation #9: The Joint Committee recommends that the Private Postsecondary and Vocational Reform Act of 1989 should be revised and rewritten to clarify its provisions, eliminate contradictions, redundancies, ambiguities and unnecessary provisions, and streamline it. Beyond that, the Act should be evaluated to determine what other changes are advisable to improve the effectiveness of the State's regulation – for example, the timeliness of the information such as annual reports, that are required to be given the Bureau.***

**Comments:** The Department reports that it has been pleased to join the JLSRC staff and others in undertaking a much needed redraft of the Bureau's enabling legislation. The Department states that it hopes that a thorough redraft will provide the Bureau, schools and students with a streamlined, workable, clear regulatory design.

**ISSUE #10: (NEEDED IMPROVEMENTS TO THE STUDENT TUITION RECOVERY FUND AND THE BUREAU'S COMPLAINT HANDLING PROCESS?)** The Bureau's process for handling complaints has been criticized for being unresponsive and extremely slow.

**Recommendation #10:** *The Joint Committee recommends that the Bureau continue to implement the provisions of AB 201 (Wright – 2001) and AB 2967 (Wright – 2002) – in particular their requirements that the Bureau adopt regulations for operation of the STRF, and for specifying procedures for its disclosure and handling of complaints.*

**Comments:** Assembly Bill 201 (Wright), Chapter 621, Statutes of 2001, made a number of statutory changes to the Student Tuition Recovery Fund (STRF) that is administered by the Bureau. To implement AB 201, the Bureau was required to promulgate regulations that specify its procedures for complaint handling and complaint disclosure and regulations to implement the statutory changes to the STRF. The Bureau has advised the Department that the STRF regulations are pending at the Office of Administrative Law and are expected to be approved in Mid-April. The regulations to implement the complaint handling and disclosure provisions of AB 201 were modified to reflect changes to the statute that were effective January 1, 2003 as the result of AB 2967 (Wright), Chapter 581, Statutes of 2002. The Bureau has advised the Department that its legal counsel is currently drafting those regulations and expects to solicit public comment the end of April.

**ISSUE #11: (ELIMINATE INSTITUTION, PROGRAM, AND INSTRUCTOR APPROVAL BACKLOG?)** The time period for a school to obtain final approval from the Bureau is often extremely long.

**Recommendation #11:** The Joint Committee recommends that the Bureau eliminate the remaining backlog in its degree-granting institution-related approvals and approval renewals. The Bureau should respond to the deficiencies in its approval process that have been found in the Department of Consumer Affairs Internal Audit - including the actions proposed by the Bureau in its response to that audit. Further, consideration should be given to having accreditation by United States Department of Education-approved regional accrediting bodies replace some of the Bureau's approval of degree-granting institutions, educational programs, and instructor requirements – while having the remainder of the Reform Act's requirements (including STRF assessments, student-related protections, information reporting) administered by the Bureau remain applicable to those institutions.

**Comments:** The Bureau reported to the Legislature in April 2000 that it was processing its workload in a timely manner and within prescribed statutory timeframes – including its Degree-Granting, Enforcement & Complaints, and Registered Institutions Programs, its Veterans Title 38 Program, and its Student Tuition Recovery and Closed Schools Units. However, it also reported that application processing and site visit backlogs existed within its Vocational Institutions Program. The Bureau prepared a Backlog Reduction Workplan to eliminate that backlog within an eighteen-month period, from July 1, 2000 through December 31, 2001.

The Legislature adopted Supplemental Report Language in the 2000 Budget Bill requiring the Bureau to report on a quarterly basis, its progress in eliminating the backlog as well as other operational and program information. The Bureau did so and reported in its Sunset Review report that it had eliminated most of the backlog, while continuing to process all current work in a timely manner. It is unclear how much, if any, backlog still remains at this time. A chart contained in the Bureau's Sunset Report shows that the Bureau received 1,380 applications for approval of postsecondary and vocational (degree-granting and nondegree-granting) institutions during FY 2001/02, approved 1,148 approval applications, approved 1,470 reapproval applications, and denied 31 applications (excluding applications that were withdrawn by applicants).

However, there can be a considerable period of time between the Bureau's receipt of a written application for a school's approval and the conduct of the actual site visit that is required before an institution can be granted final approval to operate. The Bureau states that it can relatively quickly make the necessary determination based on the application paperwork to give an institution a "temporary" approval that will let it operate while awaiting the site visit and eventual final approval decision. That time period can exceed a year though it still falls within the current statutory requirements relative to required timeframes. It should be noted that there appears to be no prescribed time frame for how long after a site visit the site visit team has to produce its report and recommendation to the Bureau for its decision on final approval. Given the lengthy time for even timely (within the statutory time limits) work processing – the experience of institutions waiting for a Bureau decision could be as if the Bureau still had a backlog. It may be worthwhile for the Bureau to look at whether it can readjust its personnel to effectuate quicker responses in the application processing.

**ISSUE #12: (NEED FOR OVERSIGHT FOLLOW-UP ON BUREAU'S PROGRESS?)** The current JLSRC review has found a number of problems and deficiencies, as have two audits of the Bureau, and specific corrective actions have been proposed to resolve them.

**Recommendation #12:** *The Joint Committee recommends that the Bureau report back to the JLSRC staff on a periodic basis during 2003 on its progress in implementing the actions that have been proposed to resolve the various problems and deficiencies found during the JLSRC's review. The Bureau should provide the JLSRC with a summary report on its progress in correcting these problems and deficiencies at the JLSRC's Fall 2003 sunset review hearing.*

**Comments:** While the average sunset review cycle is every four years, the JLSRC in the past has required agencies to report back to it sooner on what specific actions have occurred on ongoing problems or issues. Given the numerous issues remaining to be resolved in the State's regulation of private postsecondary and vocational education and the Bureau's administration of that regulation, it seems wise to have the Bureau present "progress report" to the JLSRC later this year to maintain the momentum of its current oversight efforts and to be able to determine what additional recommendations or actions need to be accomplished to ensure that this regulation is accomplished in an effective manner.